

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 587 - SB 1055

March 3, 2023

SUMMARY OF BILL: Decreases, from 0.20 percent to 0.15 percent, the minimum blood alcohol concentration (bac) level that triggers enhanced penalties for a first offense of driving under the influence (DUI).

FISCAL IMPACT:

Increase Local Expenditures – \$875,200/FY23-24 and Subsequent Years*

Assumptions:

- Pursuant to Tenn. Code Ann. § 55-10-401(2), it is an offense to operate a motor vehicle if the person's bac level is 0.08 percent or more. Pursuant to Tenn. Code Ann. § 55-10-402 (a)(1)(A), upon conviction for a first offense, an individual must be sentenced to at least two consecutive days in the county jail or workhouse and no more than 11 months and 29 days.
- Pursuant to Tenn. Code Ann. § 55-10-402(a)(1)(B), anyone convicted of DUI for the first time with a bac of 0.20 or more must be sentenced to at least seven consecutive days, rather than at least two days, in the county jail or workhouse.
- The proposed legislation revises the minimum bac for these enhancement purposes from the current 0.20 percent, to 0.15 percent. This means that DUI offenders whose bac level is between 0.15 percent and 0.19 percent will now be subject to the enhanced penalties.
- Based on a review of all the bac tests the forensic services division of the Tennessee Bureau of Investigation (TBI) has conducted in the past five years, lowering the bac level for first time DUI offenders who are subject to enhanced penalties from 0.20 percent to 0.15 percent would increase the number of individuals potentially subject to the enhanced penalties by 85.27 percent.
- According to conviction data provided by the Administrative Office of the Courts, over the past five years, the average number of those convicted of a first offense of DUI across the state each year is estimated to be 14,526.
- It is not known how many of those offenders were under the influence of alcohol. It is assumed to be 90 percent, or 13,073 individuals (14,526 offenders x 90%).
- Based on the TBI data, currently approximately 23 percent of those tested, or an estimated 3,007 individuals (13,073 individuals x 23%), possess a bac of 0.20 percent or

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greater and are subject to enhanced penalties under current law. The proposed legislation would increase this number by an estimated 85.27 percent.

- The number of additional first-time DUI offenders that would be subject to the enhanced penalties under the proposed legislation is therefore estimated to be 2,564 individuals (3,007 individuals x 85.27%).
- It is assumed that under current law these individuals spend two days incarcerated, and that under the proposed legislation they will spend seven days incarcerated, or an additional five days of incarceration per individual (7 days new – 2 days current).
- Therefore, the proposed legislation is estimated to result in an additional 15,035 days of incarceration each year (3,007 individuals x 5 days incarceration) for first-time DUI offenders across the state.
- Based on cost estimates provided by local government entities throughout the state and reported bed capacity within such facilities, the weighted average cost per day to house an inmate in a local jail facility is \$58.21.
- Therefore, the mandatory recurring increase in local expenditures related to increased incarceration is estimated to be \$875,187 (15,035 days x \$58.21 per day) in FY23-24 and subsequent years.
- Any fiscal impact to local revenue related to fines from these offenses is estimated to be not significant.

*Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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